

ORIGINAL

Before The
Federal Communications Commission
Washington, D.C. 20554

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Federal Communications Commission
Office of Secretary

In the Matter of)
)
Advanced Television Systems) MM Docket No. 87-268
and Their Impact Upon the)
Existing Television Broadcast)
Service)

To: The Commission

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PETITION FOR RECONSIDERATION

Tri-State Public Teleplex, Inc. ("WNIN"), licensee of noncommercial educational television station WNIN, Channel 9, Evansville, Indiana, by its counsel, hereby petitions for reconsideration of the *Sixth Report and Order* in MM Docket No. 87-268, FCC 97-115 (released April 21, 1997) ("*Sixth R&O*"), insofar as the *Sixth R&O* allocates Channel *54 as the paired digital TV channel for WNIN's current Channel *9. As described herein, requiring WNIN to use Channel *54 will cause substantial and unnecessary hardship. WNIN is currently engaging in engineering studies and anticipates that it and the Commission, working together, can find a workable DTV channel within the core spectrum to substitute for Channel *54 without significant disruption to other allotments or diminution in coverage area. At this time, WNIN anticipates that Channel *12 could be used. In this single respect, WNIN seeks relief by this petition.

At the outset, WNIN compliments the Commission on the substantial effort reflected in the DTV Table of Allotments and the *Fifth* and *Sixth Reports and Orders* in

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this proceeding. WNIN appreciates that the FCC has recognized and tried to accommodate the unique needs of public television stations. WNIN also understands that complicated considerations that will have to be undertaken by the Commission as it deals with this Petition and others filed by commercial and noncommercial educational television stations. Nevertheless, WNIN believes that an alternative DTV channel as requested in this Petition would serve the public interest.

WNIN has operated its station on Channel *9 at Evansville since 1969, providing high quality educational, informational and cultural programming, including children's programming. By necessity, as a noncommercial educational licensee, WNIN must be a careful steward of its resources, even while it seeks to offer the highest quality public broadcasting service. WNIN has looked forward to the early, innovative activation of DTV facilities. The allocation of Channel *54 as its paired DTV channel, however, creates enormous obstacles to the achievement of its goals.

In the *Sixth Further Notice of Proposed Rule Making* in this docket, FCC 96-317 (released August 14, 1996), the Commission proposed to allocate Channel *57 as WNIN's paired DTV channel. In its separate consideration of possible DTV allocations, however, the Broadcasters Caucus proposed the much more attractive allocation of Channel *28 for WNIN. WNIN had hoped that the Commission would settle on a

channel within the core spectrum, and WNIN specifically opposed the allocation of Channel *57.^{1/}

In the *Sixth R&O*, the Commission allocated Channel *54 for WNIN. The Commission suggested that the Channel *54 facility could operate at 1000 kw at 177 m HAAT, providing coverage replicating WNIN's existing service area.

WNIN requests reconsideration of that aspect of the *Sixth R&O*, and urges the Commission to work with WNIN in finding an acceptable substitute channel for Channel *54. As noted in the attached Engineering Statement of John F. X. Browne, WNIN's consulting engineer, WNIN is now working diligently to identify an alternative channel that would avoid interference to other NTSC and DTV allotments and stations, although that search has been hampered by the unavailability of appropriate engineering tools.^{2/} At this time, Channel *12 seems promising.

Substantial hardship will be inflicted upon WNIN if it is required to activate its DTV channel on Channel *54. Operation of that DTV station with power levels of 1000 kw as proposed by the Commission will result in additional electrical power costs of

^{1/} On November 21, 1996, WNIN filed comments with the FCC in response to the *Sixth Further Notice*, urging the allotment of some other channel than Channel *57, pointing out the electrical power costs and other concerns with its use of that channel.

^{2/} WNIN is awaiting the FCC's anticipated release of OET Bulletin 69, which will provide detailed information on a variety of the engineering calculations underlying coverage and interference considerations. WNIN reserves the right after the release of Bulletin 69, to supplement or modify its request as presented in this petition.

between \$200,000 and \$250,000 per year. This is in itself a devastating problem for this noncommercial educational station.

Even worse, the Commission's proposal for WNIN to activate its DTV channel on Channel *54 would require WNIN to change channels after the transition period. Under any scenario of the *Sixth R&O*, Channel *54 would be reclaimed by the Commission for other purposes as it is outside of the core spectrum for TV operations. Thus, under the *Sixth R&O*, WNIN would be required to activate its DTV station, only to move it to some other channel after the transition period.

For the foregoing reasons, WNIN requests reconsideration of the *Sixth R&O* to the extent that it allocates Channel *54 for WNIN in Evansville. Channel *12 may be an appropriate substitute channel.

Respectfully submitted,

TRI-STATE PUBLIC TELEPLEX, INC.

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June 13, 1997



ENGINEERING STATEMENT

of

John F.X. Browne, P.E.

in support of

Tri-State Public Teleplex, Inc.

WNIN – Evansville, IN

This engineering statement has been prepared in support of a petition for reconsideration to be filed by the licensee of non-commercial station WNIN, Evansville, IN, with respect to the channel allotment made to WNIN for its Digital Television transmissions in the Commission's Sixth Report & Order in MM Docket No. 87-268.

WNIN operates on VHF channel 9 and has been a VHF station since its inception. It was allotted DTV Channel 54 at a power level of 1,000 kW to replicate the service rendered by its NTSC operation on Channel 9.

WNIN is concerned about its ability to construct and operate such a facility given the capital and operating costs but, more importantly, the ability of its present physical facilities (tower and building) to accommodate such a large transmission system.

This firm conducted a search for a substitute VHF channel and has identified VHF Channel 12 as a possible substitution.

A thorough analysis of the potential for interference to the facilities of a co-channel NTSC VHF facility in Cape Girardeau (MO) could not be conducted because Bulletin OET-69 was not available at the time of preparation of this statement. However, it would appear that Channel 12 would meet the interference criteria particularly if the WNIN DTV facility is operated with a directional antenna to protect this distant NTSC facility. See attached channel study.

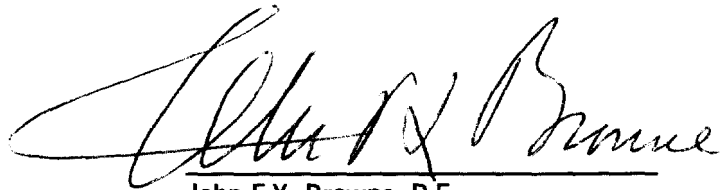
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With the foregoing consideration, Channel 12 could be assigned as the DTV facility for WNIN with maximum ERP of 45 kW.

Certification

This statement with associated exhibits was prepared by me or under my direction. All assertions contained in the statement are true of my own personal knowledge except where otherwise indicated and these latter assertions are believed to be true.

A handwritten signature in black ink, appearing to read "John F.X. Browne", written over a horizontal line.

John F.X. Browne, P.E.
June 11, 1997

Attachment: Figure 1

Figure 1

John F.X. Browne & Associates, Inc.
Bloomfield Hills, Michigan

Page 1

June 2, 1997

TITLE: WNIN DTV Digital TV Spacing Study

Latitude: 38-01-27

Channel 12 Zone I

Longitude: 87-21-43

Database: DW 05/21/97

Safety zone: 120 km

Call	Auth	Licensee name	Chan	ERP	HAAT-m	Latitude	BR-to	Dist.	Req.
City of License	St	FCC File No.	Zone	(kW)	HAMSL	Longitude	-from	(km)	(km)
WHAS-TV	LIC	JOURNAL BCG OF KENTUC	11 o	135	390	38-21-23	73.9	137.7	114.3
LOUISVILLE	KY	BMLCT-930212KH	II			85-50-52	254.9	23.35	CLEAR
KFVS-TV	LIC	AFLAC BROADCAST PARTN	12 o	316	610	37-25-46	251.3	200	244.6
CAPE GIRARDEAU	MO		II			89-30-14	70.0	-44.6	SHORT
WILL-TV	LIC	UNIV OF IL BD OF TRUS	*12 -	316	302	40-02-18	333.6	250.6	244.6
URBANA	IL		I			88-40-10	152.8	5.980	CLOSE
WKRC-TV	LIC	CITICASTERS COMPANY	12 o	316	305	39-06-58	63.1	277.1	244.6
CINCINNATI	OH		I			84-30-05	244.9	32.54	CLEAR
WBKO	LIC	BENEDEK LICENSE CORP.	13 o	316	226	37-03-52	142.3	134.3	114.3
BOWLING GREEN	KY		II			86-26-07	322.8	20.03	CLEAR
WCEE	CP	CHANNEL 13 OF ST. LOU	13 +	316	302	38-32-39	293.5	148.3	114.3
MOUNT VERNON	IL	BMPCT-840305KH	I		465	88-55-26	112.5	34.02	CLEAR
WCEE	LIC	CHANNEL 13 OF ST. LOU	13 +	316	302	38-32-39	293.5	148.3	114.3
MOUNT VERNON	IL	BMLCT-900814KE	I		465	88-55-26	112.5	34.02	CLEAR

>> End of Channel 12 Study <<